

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

**Consent  
Order of Restitution**

v.

NIHAT CARDAK

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Docket No. 21 Cr. 616 (PGG)

Upon the application of the United States of America, by its attorney, DAMIAN WILLIAMS, United States Attorney for the Southern District of New York, Peter J. Davis and Emily A. Johnson, Assistant United States Attorneys, of counsel; the presentence report; the Defendant's conviction on Count One of the above Indictment; and all other proceedings in this case, it is hereby ORDERED that:

**1. Amount of Restitution**

Nihat Cardak, the Defendant, shall pay restitution in the total amount of **\$44,973,419**, pursuant to 18 U.S.C. § 3663; 18 U.S.C. § 3663A (MVRA), to the victims of the offenses charged in the Indictment. The names, addresses, and specific amounts owed to each victim are set forth in the Schedule of Victims, attached hereto as Schedule A. Upon advice by the United States Attorney's Office of a change of address of a victim, the Clerk of the Court is authorized to send payments to the new address without further order of this Court.

**A. Joint and Several Liability**

Restitution is joint and several with the following defendants in the following case: Robert Bernardi and Sunil Chandra in *United State v. Bernardi et al.*, 21 Cr. 616 (PGG).

**B. Apportionment Among Victims**

Pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid. Restitution shall be paid to the victims identified in the Schedule of Victims,

attached hereto as Schedule A, on a pro rata basis, whereby each payment shall be distributed proportionally to each victim based upon the amount of loss for each victim, as set forth more fully in Schedule A.

**2. Schedule of Payments**

Pursuant to 18 U.S.C. § 3664(f)(2), in consideration of the financial resources and other assets of the Defendant, including whether any of these assets are jointly controlled; projected earnings and other income of the Defendant; and any financial obligations of the Defendant; including obligations to dependents, the Defendant shall pay restitution in the manner and according to the schedule that follows:

The Defendant shall make installment payments toward his restitution obligation through the Bureau of Prisons' (BOP) Inmate Financial Responsibility Plan (IFRP). Pursuant to the IFRP, the BOP may establish a payment plan by evaluating the Defendant's six-month deposit history and subtracting an amount determined by the BOP to be used to maintain contact with family and friends, send mail, and buy necessary commissary items. That subtracted amount to be used to maintain contact with family and friends, send mail, and buy necessary commissary items shall not be determined to be less than \$50 per month. In other words, installment payments should permit at least \$50 to be used to maintain contact with family and friends, send mail, and buy necessary commissary items each month. The remaining balance may be used to determine a repayment schedule. BOP staff shall help the Defendant develop a financial plan and shall monitor the inmate's progress in meeting his restitution obligation.

If the Defendant defaults on the payment schedule set forth above, the Government may pursue other remedies to enforce the judgment

**3. Payment Instructions**

The Defendant shall make restitution payments by certified check, bank check, money order, wire transfer, credit card or cash. Checks and money orders shall be made payable to the “SDNY Clerk of the Court” and mailed or hand-delivered to: United States Courthouse, 500 Pearl Street, New York, New York 10007 - Attention: Cashier, as required by 18 U.S.C. § 3611. The Defendant shall write his name and the docket number of this case on each check or money order. Credit card payments must be made in person at the Clerk’s Office. Any cash payments shall be hand delivered to the Clerk’s Office using exact change, and shall not be mailed. For payments by wire, the Defendant shall contact the Clerk’s Office for wiring instructions.

**4. Additional Provisions**

The Defendant shall notify, within 30 days, the Clerk of Court, the United States Probation Office (during any period of probation or supervised release), and the United States Attorney’s Office, 86 Chambers Street, 3rd Floor, New York, New York 10007 (Attn: Financial Litigation Unit) of (1) any change of the Defendant’s name, residence, or mailing address or (2) any material change in the Defendant’s financial resources that affects the Defendant’s ability to pay restitution in accordance with 18 U.S.C. § 3664(k). If the Defendant discloses, or the Government otherwise learns of, additional assets not known to the Government at the time of the execution of this order, the Government may seek a Court order modifying the payment schedule consistent with the discovery of new or additional assets.

**5. Restitution Liability**

The Defendant’s liability to pay restitution shall terminate on the date that is the later of 20 years from the entry of judgment or 20 years after the Defendant’s release from imprisonment, as provided in 18 U.S.C. § 3613(b). Subject to the time limitations in the preceding sentence, in the event of the death of the Defendant, the Defendant’s estate will be held responsible for any unpaid

balance of the restitution amount, and any lien filed pursuant to 18 U.S.C. § 3613(c) shall continue until the estate receives a written release of that liability.

6. Sealing

Consistent with 18 U.S.C. §§3771(a)(8) & 3664(d)(4) and Federal Rule of Criminal Procedure 49.1, to protect the privacy interests of victims, the Schedule of Victims, attached hereto as Schedule A, shall be filed under seal, except that copies may be retained and used or disclosed by the Government, the Clerk's Office, and the Probation Department, as need be to effect and enforce this Order, without further order of this Court.

AGREED AND CONSENTED TO:

DAMIAN WILLIAMS  
United States Attorney for the  
Southern District of New York

By: Peter J. Davis  
Peter J. Davis  
One Saint Andrew's Plaza  
New York, NY 10007  
Tel.: (212) 637-2468

5/16/23  
DATE

NIHAT CARDAK

By: Nihat Cardak  
Nihat Cardak

5/16/23  
DATE

By: Sylvie Levine, Esq.  
Sylvie Levine, Esq.  
Neil Kelly, Esq.

5/16/23  
DATE

SO ORDERED:

Paul G. Gardephe  
HONORABLE PAUL G. GARDEPHE  
UNITED STATES DISTRICT JUDGE

May 16, 2023  
DATE